

Fw: COE area wide EIS - phosphate (UNCLASSIFIED)

Brad Jackson to: Carol Monell, Derek Matory

02/17/2011 10:56 AM

From: Brad Jackson/R4/USEPA/US

To: "Carol Monell" <monell.carol@epa.gov>, "Derek Matory" <matory.derek@epa.gov>

2 attachments



MFR_for_EIS.pdf Reg_FACT SHEET for congress_SAJDOC_2_17_2011_10_41_6.pdf

FYI:

----- Original Message -----

From: "Gruber, Marianne B SAJ" [Marianne.B.Gruber@usace.army.mil]

Sent: 02/17/2011 10:50 AM EST

To: Brad Jackson

Cc: "Schultz, Michael A SAJ" <Michael.A.Schultz@usace.army.mil>

Subject: COE area wide EIS- phosphate (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Brad-- info regarding the COE Area Wide EIS.

I have been trying to confirm the area that Area Wide EIS will Cover. I am working on getting a Site Map of the "area of interest to be studied" as well as the EPA contact name that is working w. our regulatory folks.

I have attached: Memo for Record (3 Aug 2010), which may provide more insight into the purpose/ and goals for the EIS. There are 2 slide presentations that may be of interest as well on the web site.

IF you check out the COE regularly web site, (See link below) I am concerned that the COE address the "area wide" phosphate boundary, but I hear the EIS is evaluating potential impacts to wetlands and may be concentrated on a limited area of the phosphate boundary, near the Peace River --BUT I hope I misunderstood and the EIS will be more inclusive.

Perhaps if the EPA is interested in an AREA WIDE Phosphate EIS, it is not too late to provide INPUT to the Scoping process b4 the COE really gets started on the EIS. In which case, perhaps once we get the EPA contact name, you can talk w. them.

<http://www.saj.usace.army.mil/Divisions/Regulatory/interest.htm>

Left side- select "Actions of Interest"

First bullet - Central Florida Phosphate Mining EIS

"Early in 2011, the U.S. Army Corps of Engineers, Jacksonville District will begin preparing an area-wide Environmental Impact Statement (EIS) to examine the potential impacts of mining in the Central Florida Phosphate District (CFPD). Opportunities for public participation will be provided throughout this process.



10804763

Marianne B. Gruber, P.G.
Geologist
Geotechnical Branch, ENG -Division
U.S. Army Corps of Engineers
Jacksonville District
904-232-2930

Classification: UNCLASSIFIED
Caveats: NONE

MEMORANDUM FOR THE RECORD

SUBJECT: Appropriate National Environmental Policy Act documentation for permit applications for phosphate mining in the Central Florida Phosphate District (a.k.a. "Bone Valley")

1. Background: Phosphate is a non-renewable resource required for the manufacture of fertilizer and its associated products, various pharmaceuticals and the plastics industry. Phosphorous currently cannot be procured chemically in a cost effective manner other than by mining. The companies mining the Central Florida Phosphate District (CFPD) have acquired mineral rights or lands in fee simple in this region, as well as, State and local approvals (i.e., land use zoning) to mine the resource over many years. The mining of phosphate within the area known as the CFPD or Bone Valley has been on-going for over 100 years. Since its original discovery along the Peace River, newer and larger mining opportunities have allowed the general spread of phosphate mining to extend east and west of the Peace River from north of State Road 60 to south of State Road 64. From a high of nearly a 100 mining companies, there currently exist only two companies within the CFPD; Mosaic and CF Industries.

2. The Tampa Section has 11 pending applications and/or requests for jurisdictional determinations for mining in the CFPD. These pending actions are as follows:

SAJ-1998-02067- CJW	MOSAIC - Ona Mine
SAJ-1998-02067- CJW	MOSAIC - Ona Mine
SAJ-1995-00794 MEP	MOSAIC - Four Corners Surface Tract
SAJ-1995-00794 ACR	MOSAIC - G & D Farms
SAJ-2005-09901-MEP	MOSAIC - Lambe Tract
SAJ-1997-04752-MEP	MOSAIC - Pine Level Mine
SAJ-1997-04752-MEP	MOSAIC - Pine Level Mine
SAJ-1990-01058-MEP	MOSAIC - Hopewell Mine
SAJ-2009-03221-ACR	MOSAIC - Texaco Tract
SAJ-2009-03221-ACR	MOSAIC - Texaco Tract
SAJ-1993-01395-CJW	CF Industries - South Pasture Mine

Phosphate mining requires a permit under Section 404 of the Clean Water Act because of the discharge of dredge or fill material in waters of the United States. Mining activities generally involve mechanized land clearing, on-grade dozing and scraping for roads or staging areas, stock piling of muck or rock material for later pick up or storage, and fill for plants, maintenance trailers, etc. Any of these activities occurring in a

CESAJ-RD-S (1180)

SUBJECT: Appropriate National Environmental Policy Act documentation for permit applications for phosphate mining in the Central Florida Phosphate District (a.k.a. "Bone Valley")

wetland or other water of the United States would constitute "fill". The size of the project area and the CFPD characteristics make the project a "Major" Federal Action that would subject the work to analysis under the National Environmental Policy Act (NEPA).

3. NEPA requires an analysis through either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) if the project would "significantly" affect the human environment. The enclosed memorandum serves as an analysis for whether the cumulative impacts of phosphate mining in the CFPD requires an EA or an EIS based on the significance factors as described in the NEPA Implementing Regulations at §1508.27. The result of the analysis is the recommendation of an area-wide EIS.

4. An EIS is simply a tool that must be approached with careful thought on how the tool will be utilized post development. Development of an EIS must result in analytical rather than encyclopedic documents that emphasize real issues, while de-emphasizing insignificant ones. An Area Wide EIS would increase the Corps' knowledge in the following areas: cumulative impacts, water quality and quantity of downstream, impacts to Charlotte Harbor National Estuary Preserve, stream impacts and restoration, and socioeconomic impacts. An EIS is the best way to investigate concerns raised by stakeholders and improve the Corps' regulatory process through accurate scientific analysis, expert agency comments, and public scrutiny. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment." (40 CFR 1500.1(c)). The end result would be more consistent reviews through tiering off of or incorporating by reference sections of the Area Wide EIS for future permit application reviews to support future Corps' permitting decisions for phosphate mining projects in the CFPD.

5. Proposed mining projects within the CFPD continue to receive extensive public input and review due to the interest shown by non government organizations, other federal agencies (U.S. Environmental Protection Agency) and the general public. Additionally, two Department of the Army permits authorizing impacts to waters of the United States for phosphate mining in the CFPD region are currently being challenged in Federal district court. The Corps anticipates that further information gathering and analysis, as well as, additional opportunities for public participation through the EIS process, will address concerns raised by Federal, State, and local government agencies, non government organizations, and the general public regarding the cumulative impacts of phosphate mining in this region.

6. For the above stated reasons, an Area Wide EIS should be prepared to evaluate the cumulative impacts of the proposed phosphate mines and mine expansions in the Central Florida Phosphate District (§ 1508.25.a).

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Encl

PREPARED BY:

T. M. McElwain

TUNIS MCELWAIN
Mining Coordinator

REVIEWED BY:

REVIEWED BY:

T. M. McElwain

FOR
STEPHEN R. SULLIVAN
Branch Chief
South Permits Branch

Donald W. Kinard

DONALD W. KINARD
Chief, Regulatory Division

APPROVED BY:

Alfred A. Pantano, Jr.
ALFRED A. PANTANO, JR.
Colonel, Corps of Engineers
Commanding

68/23/10

DETERMINATION TO CONDUCT AN ENVIRONMENTAL IMPACT STATEMENT ON THE CUMULATIVE IMPACTS OF PHOSPHATE MINING WITHIN THE CENTRAL FLORIDA PHOSPHATE DISTRICT

Background:

An environmental impact statement (EIS) is a detailed document that provides a full, open, and fair discussion of significant environmental impacts. It informs decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment, and the related decisions made regarding the proposed action. An agency may decide to produce an EIS after completing an Environment Assessment (EA) or it may decide to undertake an EIS without first completing an EA. Although an EIS is typically more detailed and more complex than an EA, the analysis included in an EA is often just as complex and thorough. While the EIS process requires formal public interaction and scoping, it is more than a public disclosure document, and should be used by responsible officials in conjunction with other relevant planning and decision support materials.

It is appropriate to undertake preparation of an EIS when an agency determines that a proposed major Federal action may have a significant impact on the quality of the human environment. In accordance with 40 C.F.R. §1508.27, significance is determined based on considerations of context and intensity. While context refers to the setting of the proposed action, intensity refers to the severity of the impacts. An EIS is appropriate when the responsible official determines that the proposed action has the potential to adversely interact with other actions with individually insignificant effects so that cumulatively significant environmental effects result.

Phosphate Mining in the Central Florida Phosphate District May Have A Significant Cumulative Impact on the Human Environment:

Phosphate mining within the Central Florida Phosphate District (CFPD) or "Bone Valley" region consists of portions of predominantly five counties and comprises an area of approximately 1.32 million acres (or +/- 2,100 sq mi) in Hardee, Hillsborough, Manatee, Polk, and DeSoto Counties (Sarasota is the 6th county, but only comprises about 1,000 acres). Mining in the region has occurred for over 100 years, resulting in pre-regulatory impacts up to the present day. The Corps has issued Clean Water Act ("CWA") Section 404 permits for phosphate mining in the region for at least 20 years. Although the Corps has determined as recently as June 2010 that the cumulative impacts of phosphate mining, past, present, and future, in the Peace River watershed, a part of the larger Bone Valley Region, from 1977 to 2028 had not reached the significance threshold, it appears that the phosphate mining industry may submit new and additional applications for permits to mine phosphate beyond the year 2028 in the greater CFPD region until the resource has been depleted or is no longer economically viable to extract. Thus, additional plans to for future phosphate mining in the CFPD may result in significant cumulative environmental effects in the future, although the cumulative impacts to this point are not significant.

In considering the intensity of the impacts, the Corps should consider "whether the action is related to other actions with individually insignificant but cumulatively significant impacts." 40 C.F.R. § 1508.27(b)(7) "Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment." *Id.*

Phosphate mining has been on-going in the Bone Valley region since about 1880. However, the Corps did not begin regulating waters of the United States in this region until 1 July 1977. Currently operating phosphate mines include CF Industries' South Pasture Mine and portions of Mosaic's Four Corners, Fort Green, Hookers Prairie, and South Fort Meade-Polk County mines. The Corps has also issued permits to Mosaic for mine extensions at the Altman Tract and South Fort Meade-Hardee County, and these permits are currently the subject of litigation in federal district court. Although work authorized by the permit for the South Fort Meade-Hardee County has been enjoined, mining at the Altman Tract is ongoing.

Within the CFPD, the Corps has pending permit applications from CF Industries for the South Pasture Extension (7,513 acres) and from Mosaic for the Ona Mine (20,676 acres). Mosaic's other planned mines and mine extensions in the CFPD include the Texaco Tract Extension (4,345 acres), Pioneer Tract Extension (15,932 acres), West Pioneer Tract Extensions (8,132 acres), Pine Level Mine (24,060 acres), Key's Tract Extension (14,075 acres), and the Fort Meade Extension (4,079 acres). The Corps determined that the cumulative impacts of the CWA permit issued on 14 June 2010 for the Mosaic's South Fort Meade Hardee County Mine Extension (SAJ-1997-4099) were not significant. However, because those mines will not begin operation before 2028, they fall outside the lifetime of that permit's mitigation plan, through 2028, and thus, the cumulative impacts of the Texaco Tract Extension, Pioneer Tract Extension, West Pioneer Tract Extension, Key's Tract Extension, and Fort Meade Extension (total of 46,563 acres) were not considered for that analysis. Additionally, the geographic scope of the cumulative impacts analysis in that environmental assessment was limited to the Peace River watershed. The CFPD includes six watersheds, and this Regional EIS will assess all of them. In anticipation of these and other future CWA permit applications to mine phosphate in the CFPD and consistent with the requirement to commence the NEPA process at the earliest possible time, the Corps finds that the cumulative impacts of phosphate mining in the CFPD may be significant and, therefore, it is appropriate to undertake an area-wide EIS to analyze the potential cumulative impacts.

954-462-2148
Riverside Hotel
marianne Grube

CESAJ-RD (Cong)

January 2011

FACT SHEET
Area Wide EIS for Phosphate Mining in the Central Florida
Phosphate District
(General Overview)
Regulatory
Congressional Districts: 9, 12, 13, 14, and 16

Project Name and Purpose: The Corps Jacksonville District has decided to prepare an Area Wide Environmental Impact Statement (EIS) to consider potential impacts of mining in the Central Florida Phosphate District (CFPD).

Key Issues:

- Mosaic Fertilizer, LLC (Mosaic) and CF Industries (CFI) continue to pursue authorization from the Corps under the provisions of Section 404 of the Clean Water Act for the proposed construction and operation of phosphate mines in the CFPD.
- Proposed mining projects within the CFPD continue to receive extensive public input and review due to the interest shown by nongovernmental organizations, other federal agencies, and the general public. Additionally, two Department of the Army Permits authorizing impacts to waters of the United States for phosphate mining in the CFPD region are currently being challenged in Federal district court.
- Given the size of the project area and the CFPD characteristics, we have determined that this project is a "Major" Federal Action that would subject the work to analysis under the National Environmental Policy Act of 1969. Therefore the decision was made to prepare an area wide EIS to evaluate the cumulative impacts of the proposed phosphate mines and the mine expansions in the CFPD.

Actions: The following actions have recently occurred and are currently being scheduled to occur:

1. On 6-7 October 2010, as a prelude to the EIS, the Corps held a Phosphate Mining Workshop in Lakeland, Florida. The

goal of this workshop which was open to the general public was to bring as many people with an interest in the issues related to phosphate mining together, to begin to engage them in our process, and to listen to their concerns.

2. On 10 November 2010, the Corps selected its 3rd party contractor, CH2M Hill. While this firm will work for the Corps in preparation of this EIS, funding will be provided by Mosaic and CFI. ✓
3. The U.S. Environmental Protection Agency has agreed to participate as a cooperating agency for this EIS. Other Federal, State, and County governmental agencies have requested to be participating agencies in this endeavor. ✓
4. On 2 December 2010, a meeting was held with CH2M Hill, Mosaic, CFI and the Corps to further discuss the Scope of Work to assist in finalizing the contracts with the CH2M Hill.
5. Mid to late February 2011, we will publish the Notice of Intent (NOI) in the Federal Register which will announce the preparation of the Area Wide EIS and dates and locations of the Scoping Meetings to be held early 2011.

Issues:

- Given the broad geographic area of this proposed EIS, the major issue at hand is accurately defining the Scope of Analysis and finalizing the Scope of Work.
- Developing a reasonable time table for this EIS.